

CALIFORNIA PUBLIC UTILITIES COMMISSION

State Law and Regulations Establish Firm Deadlines for Only a Small Number of Its Proceedings

Audit Highlights . . .

Our review of whether the California Public Utilities Commission (commission) promptly resolves formal and informal proceedings found the following:

- Few of the 1,602 formal proceedings the commission initiated between January 1, 2000, and June 30, 2003, were subject to statutory deadlines.*
- Commission staff provided various reasons for delays, including that the outcomes of some proceedings were dependent on other decisions or investigations or the proceedings were purposely kept open to take up related issues or to manage them in multiple phases.*
- Two factors contributed to delays in processing the more informal advice letters, which the commission uses to approve minor requests from utilities: Some had a lower workload priority and some required formal resolution or investigation.*

continued on next page

REPORT NUMBER 2003-103, NOVEMBER 2003

California Public Utilities Commission's response as of November 2003

The Joint Legislative Audit Committee (audit committee) requested that the Bureau of State Audits determine whether the California Public Utilities Commission (commission) promptly completes the various types of administrative proceedings it is responsible for conducting. The audit committee asked that we determine how the commission sets priorities in the water, telecommunications, and energy areas when conducting its various types of administrative proceedings. Additionally, we were asked to review staffing levels to assess whether these levels are adequate for the commission to comply with its statutory mandates regarding administrative proceedings. As part of the assessment, we were to consider other studies that may have been performed related to staffing. Finally, the audit committee requested that we identify any timelines contained in law or regulations for the completion of proceedings. We were asked to select a sample of proceedings that exceeded the timelines yet remain unresolved and another sample that exceeded the timelines but were resolved and determine the reasons for delays.

Finding #1: Some proceedings the commission closed promptly that it later reopened appeared to be delayed.

The commission resolved five of 45 proceedings we reviewed within the statutory deadline or guideline, but because its tracking system does not appropriately reflect the resolution of proceedings that are reopened, these proceedings appeared to have been delayed. The commission's system tracks numerous pieces of information about each proceeding, including the title and type of proceeding, when it was opened and closed, and when it was reopened. However, when the commission

Although the commission cited workload and inadequate staffing as contributing to delays in processing its formal proceedings and advice letters, the lack of a workload tracking system hinders its ability to justify staffing needs.

reopens a proceeding, such as when it considers requests for a rehearing, and then closes the proceeding again, the later closing date replaces the initial one. Because only the later closing date is used in measuring how long the commission took to resolve the proceeding, the commission appears to have required more time than it actually did. When we became aware that the closing dates in the tracking system were not always accurate, we reviewed all 70 of the proceedings that had reopen dates and found that the commission resolved 43 within the original deadlines.

We recommended that the commission modify its tracking system to retain the original closing date as well as record its subsequent closing date for those proceedings it reopens.

Commission Action: Pending.

The commission stated that it will implement the recommendation as best as it is able with the commission's existing resources, but it also indicated that this aspect of the report deserved a brief comment. The commission believes that our report fails to contemplate the perhaps significant cost of either enhancing or replacing the tracking system. However, based on discussions with our information technology staff, we do not believe the cost to modify the commission's tracking system to retain the original closing date and subsequent closing date for reopened proceedings would be significant. Further, since the commission acknowledges that it does not know whether the costs to enhance or replace its tracking system would be significant, it should first determine what those costs are. If they are prohibitive, the commission should manually track the original closing dates of all proceedings it reopens.

Finding #2: The commission did not report certain proceedings.

Although the commission tracks and reports to the Legislature whether it has met certain deadlines established in law, it does not report whether it is meeting the 60- and 90-day deadlines for issuing draft decisions. Moreover, it does not adequately track the submission date that would allow it to do so. Specifically, although commission staff provided us with submission dates for rate-setting and quasi-legislative proceedings, two of the 12 submission dates reviewed for accuracy were erroneous. In addition, the commission initially was unable to provide us with submission dates for adjudicatory proceedings. According to

the chief administrative law judge (ALJ), the commission based its decision to report only certain deadlines to the Legislature on its belief that the Legislature is most concerned with the portion of these proceedings involving commissioners' actions; therefore, it tracks and reports whether the commissioners have met the 60-day deadline to approve final decisions. However, because ALJs are most often responsible for meeting the 60- and 90-day deadlines to prepare draft decisions, the commission's decision not to report compliance with these deadlines to the Legislature overlooks the portion of the proceedings subject to these deadlines. Therefore, because state law requires the commission to issue draft decisions within either 60 or 90 days of submission, we believe it is important to accurately track all submission dates in order to monitor compliance with these requirements.

To ensure it is complying with the 60- and 90-day deadlines between submission date and filing a draft decision, we recommended that the commission better track its submission dates and monitor whether it is meeting its deadlines.

Commission Action: Pending.

The commission stated that it will implement the recommendation as best as it is able with the commission's existing resources.

Finding #3: The commission did not prepare a work plan access guide annually as required by law.

Although state law requires that the commission develop, publish, and annually update a work plan access guide (work plan), it did not prepare the work plan for 2000 through 2002. Among other things, state law requires the commission to include within the work plan a description of the scheduled rate-making proceedings and other decisions it may consider during the calendar year, information on how the public and ratepayers can gain access to the commission's rate-making process, and information regarding the specific matters to be decided. Ultimately, the commission did prepare a work plan for 2003 that included its criteria for determining regulatory priorities and a list of the 2003 major proceedings. The commission states in its 2003 work plan that it allocates its staff resources for decision making according to a stated set of priorities established by its president.

To ensure it discloses to the public and the Legislature its process for prioritizing its proceedings, we recommended that the commission continue to annually prepare and publicize a work plan, which includes its criteria for prioritizing formal proceedings, as required by law.

Commission Action: Corrective action taken.

The commission stated that it will implement the recommendation as best as it is able with the commission's existing resources.

Finding #4: The commission delayed closing or failed to close advice letters promptly.

Staff promptly reviewed and approved 17 of the telecommunications division's and 10 of the energy division's advice letters, which the commission uses to address minor requests from utilities. However, staff either delayed closing or failed to close these 27 advice letters in the proposal and advice letter (PAL) tracking system. This represents 30 percent of the 90 advice letters we selected for testing. We believe that the high proportion of advice letters in our sample that remain open according to the dates in the PAL tracking system when they are actually closed should be of concern to the commission because it recently began using data recorded in the PAL tracking system to report to the commissioners on the status of advice letters. This type of erroneous data generated by the tracking system could be misleading to the commission and to those to which the commission reports this information.

We recommended that to ensure the information included in the PAL tracking system is accurate for reporting to the commissioners in public meetings on the timeliness of advice letters, the commission should review all advice letters in the system and close those where it is appropriate to do so.

Commission Action: Pending.

The commission stated that it will implement the recommendation as best as it is able with the commission's existing resources, but it also indicated that this aspect of the report deserved a brief comment. The commission believes that our report fails to contemplate the perhaps significant cost of either enhancing or replacing the PAL tracking system. However, the commission's response mischaracterized

this issue because our recommendation does not require the commission to enhance or replace the PAL tracking system, but to correct the data generated by it.

Finding #5: The telecommunications division does not adequately maintain and track its advice letters.

The commission's telecommunications division (telecommunications) lacks a filing system that allows it to store advice letters and the supporting documentation for the letters in a central location. Thus, telecommunications had difficulties locating advice letter files and related supporting documents. Specifically, telecommunications staff required several weeks to locate 60 advice letter files we requested and were ultimately unable to locate six of them. We observed in many instances that advice letters were located at an analyst's desk or piled on tables rather than in a central filing area. Telecommunications staff conceded that maintaining and tracking advice letters has been and continues to be a problem.

In an attempt to address its filing problems, telecommunications has initiated a pilot project that allows utilities to submit advice letters and supporting documents in an electronic format. A program manager indicated that telecommunications intends to maintain electronic copies of the advice letter and supporting documents, which he believes will facilitate their storage and tracking. Although this may eventually prove successful, telecommunications still needs to file and track the advice letters and supporting documents of utilities that currently choose not to file electronically in such a way that it is able to accurately and promptly retrieve them.

Finally, as part of its processing, telecommunications requires utilities to submit a summary sheet with their advice letters. Telecommunications uses this summary sheet to track the advice letter's progress by indicating the differing levels of review and approval it has received. However, staff often could not locate the relevant summary sheet or, when found, it was not fully completed.

We recommended that as part of its new electronic filing process, the commission ensure that the telecommunications division creates an effective centralized filing system for those advice letters and supporting documents not submitted in electronic format. Additionally, for purposes of oversight and

external and internal review, the commission should ensure that telecommunications staff consistently complete and retain summary sheets to evidence appropriate approval and review and that telecommunications maintains the summary sheets in its advice letter files.

Commission Action: Pending.

The commission stated that it will implement the recommendation as best as it is able with the commission's existing resources.

Finding #6: The commission lacks a workload tracking system that would allow it to justify its staffing needs.

Although the commission indicated that staffing is a limiting factor in promptly processing its formal proceedings and advice letters, it was unable to provide us with workload analyses to support these contentions. In fact, the Department of Finance (Finance), in various reports and management letters it prepared between February 1998 and February 2003, reported that the commission lacks a workload tracking system that would allow it to justify its staffing needs. In response to a February 2003 management letter, the commission began to revise its workload tracking system to address Finance's concerns; however, it does not anticipate implementing key phases of the new system until the end of 2003 or the beginning of 2004. Thus, during our audit the commission was unable to provide us any staffing analyses that would allow us to determine whether its staffing levels are adequate to promptly process formal proceedings and advice letters.

We recommended that the commission continue to work with Finance on improving its workload tracking system so that it can justify its staffing needs.

Commission Action: Pending.

The commission stated that it will implement the recommendation as best as it is able with the commission's existing resources, but it also indicated that this aspect of the report deserved a brief comment. The commission indicated that if we could not perform a quantitative analysis of the commission's staffing levels, then we might have performed some qualitative analysis. The commission further stated that we could have interviewed commission management

to see what activities or projects they believed should be undertaken but are prevented by inadequate staffing levels. Contrary to the commission's response, however, we met with the commission's management staff on several occasions. During these meetings, management staff asserted that workload and inadequate staffing contributed to delays. However, as we stated in our report, while the commission's management staff asserted they were short of staff, they could not provide evidence to support their claims.

